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EXTRAORDINARY

PART II—Section 1

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MINISTRY OF LAW

New Delhi, the 3rd December 1956

The following Act of Parliament received the assent of the President on the 2nd December, 1956, and is hereby published for general information:—

THE CODE OF CIVIL PROCEDURE (AMENDMENT) ACT, 1956

No. 66 OF 1956

[2nd December, 1956]

An Act further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1956. Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 of 1908. 2. In section 34 of the Code of Civil Procedure, 1908 (hereinafter referred to as the principal Act),— Amendment
of section
34.

(a) in sub-section (1), for the words “with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged”, the words “with further interest at such rate not exceeding six per cent. per annum as the Court deems reasonable on such principal sum” shall be substituted;

(b) in sub-section (2), for the words “on such aggregate sum as aforesaid”, the words “on such principal sum” shall be substituted.

Amendment
of section
35.

3. Sub-section (3) of section 35 of the principal Act shall be omitted.

Amendment
of section
35A.

4. In sub-section (1) of section 35A of the principal Act,—

(i) for the words “not being an appeal”, the words “including an execution proceeding but excluding an appeal” shall be substituted; and

(ii) for the words “if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof”, the words “if it so thinks fit” shall be substituted.

Amendment
of section
47.

5. In section 47 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation*.—For the purposes of this section, a plaintiff whose suit has been dismissed, a defendant against whom a suit has been dismissed and a purchaser at a sale in execution of the decree are parties to the suit.”

Amendment
of section
60.

6. In the proviso to sub-section (1) of section 60 of the principal Act,—

(a) in clause (i), after the words “one-half the remainder”, the words “in execution of any decree other than a decree for maintenance” shall be inserted;

(b) after clause (i), the following clause shall be inserted, namely:—

“(ia) one-third of the salary in execution of any decree for maintenance;”;

(c) in clause (j), after the words “to whom”, the words and figures “the Air Force Act, 1950 or” shall be inserted.

45 of 1950.

Omission of
sections 68
to 72.

7. Section 68, section 69, section 70, section 71 and section 72 of the principal Act shall be omitted.

Amendment
of section
82.

8. In sub-section (1) of section 82 of the principal Act, after the words “within the time so specified”, the words “or within three months from the date of the decree, where no time is so specified” shall be inserted.

Amendment
of section
92.

9. In sub-section (1) of section 92 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

“(cc) directing a trustee who has been removed or a person

who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;".

10. In section 102 of the principal Act, for the words "five hundred rupees", the words "one thousand rupees" shall be substituted. Amendment of section 102.

11. In section 109 of the principal Act, in clause (c), for the words "decree or order", the words "judgment, decree or final order" shall be substituted. Amendment of section 109.

12. In section 133 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 133.

"(1) The following persons shall be entitled to exemption from personal appearance in Court, namely:—

- (i) the President of India;
- (ii) the Vice-President of India;
- (iii) the Speaker of the House of the People;
- (iv) the Ministers of the Union;
- (v) the Judges of the Supreme Court;
- (vi) the Governors of States and the administrators of Union territories;
- (vii) the Speakers of the State Legislative Assemblies;
- (viii) the Chairmen of the State Legislative Councils;
- (ix) the Ministers of States;
- (x) the Judges of the High Courts; and
- (xi) the persons to whom section 87B applies."

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), the words "so exempted" shall be omitted.

13. In sub-section (1) of section 144 of the principal Act,—

(i) after the words "as a decree", the words "or an order" shall be inserted; and Amendment of section 144.

(ii) after the words "such decree", the words "or order" shall be inserted.

Amendment
of the First
Schedule.

14. In the First Schedule to the principal Act,—

(1) in Order V, after rule 20, the following rule shall be inserted, namely:—

Service of
summons
by post.

“20A. (1) Where, for any reason whatsoever, the summons is returned unserved, the Court may, either in lieu of, or in addition to, the manner provided for service of summons in the foregoing rules, direct the summons to be served by registered post addressed to the defendant or his agent empowered to accept service at the place where the defendant or his agent ordinarily resides or carries on business or personally works for gain.

(2) An acknowledgment purporting to be signed by the defendant or the agent or an endorsement by a postal employee that the defendant or the agent refused to take delivery may be deemed by the Court issuing the summons to be *prima facie* proof of service.”

(2) in Order XII, after rule 3, the following rule shall be inserted, namely:—

Power of
Court to
record
admission.

“3A. Notwithstanding that no notice to admit documents has been given under rule 2, the Court may, at any stage of the proceeding before it, of its own motion, call upon any party to admit any document and shall, in such a case, record whether the party admits or refuses or neglects to admit such document.”;

(3) in Order XVI, after rule 1, the following rule shall be inserted, namely:—

Production
of witnesses
without
summons
through
Court.

“(1A) Where any party to the suit has, at any time on or before the day fixed for the hearing of evidence, filed in the Court a list of persons either for giving evidence or for producing documents, the party may, without applying for summons under rule 1, bring any such person, whose name appears in the list, to give evidence or to produce documents.”;

(4) in Order XX, for rule 1, the following rule shall be substituted, namely:—

Judgment
when pro-
nounced.

“1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or, as soon thereafter as may be practicable, on some future day;

and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders.”;

(5) in Order XXI,—

(a) rule 70 shall be omitted;

(b) in rule 71, the words “or to the Collector or subordinate of the Collector, as the case may be” shall be omitted;

(6) in Order XXV, for rule 1, the following rule shall be substituted, namely:—

“1. (1) At any stage of a suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff, for reasons to be recorded, to give within the time fixed by it security for the payment of all costs incurred and likely to be incurred by any defendant: When security for costs may be required from plaintiff.

Provided that such an order shall be made in all cases in which it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of India and that such plaintiff does not possess or that no one of such plaintiffs possesses any sufficient immovable property within India other than the property in suit.

(2) Whoever leaves India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of India within the meaning of the proviso to sub-rule (1).”;

(7) in Order XXXIV, in rule 11,—

(a) in clause (a),—

(i) sub-clause (ii) shall be omitted;

(ii) in sub-clause (iii), for the words “at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum”, the words “at such rate not exceeding six per cent. per annum as the Court deems reasonable” shall be substituted;

(b) for clause (b), the following clause shall be substituted, namely:—

“(b) subsequent interest up to the date of realisation or actual payment on the aggregate of the principal sums specified in clause (a) as calculated in accordance with that clause at such rate as the Court deems reasonable”.

(8) in Order XXXVII, in rule 1, after clause (a), the following clause shall be inserted, namely:—

“(b) any District Court or other Court specially empowered in this behalf by the State Government;”;

(9) in Order XLIV, rule 1 shall be re-numbered as sub-rule (1) thereof, and—

(a) in sub-rule (1) as so re-numbered, the proviso shall be omitted;

“(b) any District Court or other Court specially sub-rule shall be inserted, namely:—

Procedure on application or admission of appeal.

“(2) The Appellate Court, after fixing a day for hearing the applicant or his pleader and hearing him accordingly if he appears on that day, and upon a perusal of the application and of the judgment and decree appealed from, shall reject the application, unless it sees reason to think that the decree is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.”;

(10) in Order XLVII,—

(a) rule 2 shall be omitted;

(b) in rule 7, in sub-rule (1), clause (a) shall be omitted.

Omission of Third Schedule.

15. The Third Schedule to the principal Act shall be omitted.

Savings in respect of execution of certain decrees by collectors.

16. Where, before the commencement of this Act, the execution of a decree has been transferred to the Collector under section 68 of the principal Act and is pending before the Collector on such commencement, then, notwithstanding the omission of sections 68 to 72 inclusive and the Third Schedule to the principal Act, the

decree shall be executed by the Collector in accordance with the provisions of the said sections and the said Schedule, as if this Act had not been passed.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

